

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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In Re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO:

STATE OF MONTANA v. ABBOTT
LABORATORIES, INC. et al., Civil
Action No. 02-12084-PBS,

and

STATE OF NEVADA v. AMERICAN HOME
PRODUCTS CORP. et al., Civil Action No.
02-12086-PBS
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MDL NO. 1456

Master File No. 01-CV-12257-PBS

Judge Patti B. Saris

JOINT MOTION FOR ENTRY OF
SCHEDULING ORDER

The undersigned counsel for plaintiffs and defendants in the above-captioned actions respectfully move this Court for the entry of a proposed Scheduling Order (attached hereto as Exhibit A).

Plaintiff State of Montana filed its initial complaint on February 25, 2002 in the First Judicial District Court of the State of Montana for Lewis and Clark County (the "Montana Action"). The Montana Action was removed to the United States District Court for the District of Montana on April 15, 2002, and the State of Montana filed an amended complaint on May 15, 2002. In June 2002, the action was stayed pending a transfer decision by the Judicial Panel on Multidistrict Litigation ("JPML").

Plaintiff State of Nevada filed its complaint on March 7, 2002 in the Second Judicial District Court in and for Washoe County, Nevada (the "Nevada Action"). On April 17, 2002, the

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Nevada Action was removed to United States District Court for the District of Nevada. In July 2002, the Nevada Action was stayed pending a transfer decision by the JPML.

Both actions were subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation in October 2002. Following transfer to this Court, both plaintiffs filed motions to remand their respective actions to state court. On June 11, 2003, this Court denied those motions. No responsive pleadings have yet been filed in the Montana action.

In light of this Court's Memorandum and Order dated May 13, 2003, plaintiffs intend to file amended complaints. Under these circumstances, the parties agree that it would be inefficient for defendants to respond to the claims in the current Montana complaint. Accordingly, defendants respectfully request to be relieved of the obligation to respond to the Montana complaint. Montana has no objection to this request. In addition, defendants anticipate that they will move to dismiss the amended complaints in both the Montana and Nevada Actions. Accordingly, the parties jointly request that the Court adopt the proposed scheduling order attached hereto as Exhibit A.

Respectfully Submitted,

ON BEHALF OF PLAINTIFFS

By:  _____

DATED: July 15, 2003

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ON BEHALF OF DEFENDANTS

By:  _____

DATED: July 15, 2003

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MDL NO. 1456

: Master File No. 01-CV-12257-PBS

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: Judge Patti B. Saris

[PROPOSED] SCHEDULING ORDER

WHEREAS, plaintiffs Montana and Nevada each filed an action in their respective state
courts on February 25, 2002 and March 7, 2002, respectively;

WHEREAS, such actions were removed to federal court in April 2002;

WHEREAS, the above captioned actions were transferred to this Court by the Judicial
Panel on Multidistrict Litigation in October 2002;

WHEREAS, no responsive pleadings have been filed in the Montana action;

WHEREAS, plaintiffs intend to file amended complaints on or before August 1, 2003;

WHEREAS, defendants anticipate that they will move to dismiss the amended
complaints;

WHEREAS, judicial economy would be best served if defendants are relieved from their
obligation to answer the current Montana complaint;

IT IS HEREBY ORDERED as follows:

1. Defendants are relieved from their obligation to respond to the current Montana complaint.

2. Plaintiffs shall file amended complaints no later than August 1, 2003.

3. Defendants shall file responsive pleadings or otherwise move against the amended complaints by September 15, 2003.

4. In the event that defendants move to dismiss the amended complaints, defendants shall file one consolidated memorandum not to exceed forty (40) pages in total, addressing issues common to all defendants. In addition to the consolidated memorandum, any defendant may file an individual supporting memorandum not to exceed five (5) pages addressing issues specific to that defendant.

5. Plaintiffs shall file and serve their opposition to any responsive motion(s) by October 30, 2003. Plaintiffs' opposition to all responsive motions shall not exceed sixty (60) pages in total.

6. Defendants shall file and serve any replies by November 14, 2003. Any consolidated reply on issues common to all defendants shall not exceed twenty (20) pages, and any replies by individual defendants on issues specific to that defendant may not exceed three (3) pages.

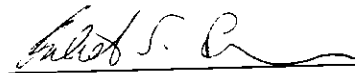
7. Plaintiffs shall file and serve any surreply by December 1, 2003. Plaintiffs' surreply shall not exceed forty (40) pages in total.

Dated: July __, 2003

Patti B. Saris
United States District Judge

CERTIFICATE OF SERVICE

I certify that on July 16, 2003, a true and correct copy of the foregoing Joint Motion for Entry of Scheduling Order was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.



Juliet S. Sorensen

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